

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

INDEMNITY INSURANCE COMPANY OF
NORTH AMERICA,

Plaintiff,

v.

EXPEDITORS INTERNATIONAL OF
WASHINGTON, INC. and DOES 1-5,

Defendants.

EXPEDITORS INTERNATIONAL OF
WASHINGTON, INC.,

Third-Party Plaintiff,

v.

CARGOLUX AIRLINES INTERNATIONAL
S.A.,

Third-Party Defendant.

No. 2:15-cv-00851

DEFENDANT/THIRD-PARTY
PLAINTIFF EXPEDITORS
INTERNATIONAL OF WASHINGTON,
INC.' THIRD-PARTY COMPLAINT
FOR INDEMNITY OR CONTRIBUTION

COMES NOW defendant Expeditors International of Washington, Inc. ("Expeditors"), as
and for its third-party complaint for indemnity or contribution, complaining of third-party
defendant Cargolux Airlines International S.A. ("Cargolux"), and hereby alleges and avers as
follows:

THIRD-PARTY COMPLAINT OF EXPEDITORS
INTERNATIONAL OF WASHINGTON, INC. - 1
Case No. 2:15-cv-00851

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

Parties

1) Expeditors is a Delaware corporation with its principal place of business in Seattle, Washington, and is in the business, *inter alia*, of operating as an indirect air carrier as defined by 49 CFR §1540.5.

2) Cargolux is a Luxembourg company that regularly transacts and is licensed to do business in Washington, and is in the business, *inter alia*, of operating as a foreign air carrier as defined by 49 USC §40102(21).

Jurisdiction and Venue

3) The Court has jurisdiction over the subject matter of this third-party complaint because the issues derive from the same the facts and circumstances alleged by plaintiff Indemnity Insurance Company of North America (“IICNA”) in the primary action.

4) Venue is proper in this Court pursuant to 28 USC §1391 as alleged in IICNA’s Complaint for Cargo Damage based on Expeditors’ place of business, and because Cargolux regularly transacts business within this district.

Allegations of Operative Fact

5) IICNA alleges in the primary action that its insured and subrogor, GE Medical Systems and/or GE Medical Systems SCS (CH Hospitalor), engaged Expeditors to arrange for air transportation of certain cargoes of medical equipment (the “Subject Cargo”) from Chicago to Charles De Gaulle Airport in Paris France (the “Subject Shipment”).

6) Expeditors booked transit of the Subject Shipment with Cargolux, and Cargolux provided air transportation and other services for the Subject Shipment pursuant to its Air Waybill No. 172-01734563, a copy of which is attached hereto and incorporated herein by this reference.

1 7) IICNA alleges in the primary action that the Subject Cargo was delivered in
2 damaged condition, and IICNA seeks recovery from Expeditors of damages resulting from such
3 damage in the primary action.

4 8) If the Subject Cargo sustained damage during the Subject Shipment, then such
5 damage resulted, wholly or partially, from the negligence, breach of contract or other
6 wrongdoing of Cargolux.

7 **Cause of Action**
8 **Indemnity or Contribution**

9 9) Expeditors repeats and realleges the allegations of paragraphs 1 through 8 as if
10 fully stated herein.

11 10) In the event Expeditors is adjudged liable to IICNA in the primary action for
12 damage to the Subject Cargo, then Cargolux is liable to Expeditors for any sums awarded to
13 IICNA against Expeditors under the doctrine of equitable indemnity.

14 11) In the event Expeditors is adjudged liable to IICNA in the primary action for
15 damage to the Subject Cargo, then Cargolux is liable to Expeditors for a portion of sums
16 awarded to IICNA against Expeditors under the doctrine of equitable contribution.

17 12) In the event Expeditors is adjudged liable to IICNA in the primary action for
18 damage to the Subject Cargo, then Cargolux is liable to Expeditors for any sums awarded to
19 IICNA against Expeditors under the doctrine of implied indemnity.

20 13) Cargolux is liable to Expeditors for Expeditors's costs and reasonable attorneys'
21 fees incurred by Expeditors's defense of IICNA's primary action and Expeditors' prosecution of
22 its third-party action against Cargolux.

23
24 WHEREFORE, Expeditors prays for relief as follows:
25
26

1 1) That in the event Expeditors is adjudged liable, wholly or partially, for the
2 damages alleged by IICNA in the primary action as stated in its complaint, that Expeditors be
3 awarded indemnity or contribution from Cargolux in amounts to be determined at trial;

4 2) For an award of Expeditors's costs and reasonable attorneys' fees incurred by its
5 prosecution of this third-party action and its defense of IICNA's primary action; and

6 3) For such other and further relief as the Court may deem just and proper.
7

8 DATED this 4th day of June, 2015.
9

s/ Steven W. Block

Steven W. Block, WSBA No. 24299

FOSTER PEPPER PLLC

1111 Third Avenue, Suite 3400

Seattle, Washington 98101-3299

Telephone: (206) 447-4400

Facsimile: (206) 447-9700

Email: sblock@foster.com

Attorneys for Defendant Expeditors

International of Washington, Inc.

CERTIFICATE OF SERVICE

I hereby certify service that on June 4, 2015, I electronically filed the preceding document with the Clerk of the Court using the CM/ECF system which will send notification to the counsel of record in this case:

James F Whitehead, III
2003 Western Avenue , Suite 330
Seattle, WA 98121
206-448-0100
206-448-2252 (fax)
jim@jfw-law.com
Attorneys for Plaintiff

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated June 4, 2015.

s/ Steven W. Block
Steven W. Block

172 ORD 01734563

172-01734563

Shipper's Name and Address EXPEDITORS INTERNATIONAL OF WASH 849 THOMAS DR EI-ORD EXPORT BENSENVILLE IL 60106 U.S.A.		Shipper's Account Number		Not Negotiable	
Consignee's Name and Address Expeditors Intl France, SAS Parc des reflets - ZI Paris Nord II Batiment A1 & A2 165 Avenue du Bois 95700 Roissy CEDEX FRANCE		Consignee's Account Number		Air Waybill CARGOLUX AIRLINES INT. S.A LUXEMBOURG L-2990 LUXEMBOURG Copies 1,2 and 3 of this Air Waybill are originals and have the same validity.	
Issuing Carrier's Agent Name and City EXPEDITORS INTERNATIONAL OF WASH BENSENVILLE IL U.S.A.		ORD1266443		Accounting Information	
Agent's IATA Code 01-1-1853/0022		Account No.			
Airport of Departure (Addr. of First Carrier) and Requested Routing CHICAGO, IL		Reference Number		Optional Shipping Information	
To LUX	By First Carrier CV	Routing and Destination CDG CV	to CDG	by CV	Currency USD CHGS Code P WT/VAL P Other P Declared Value for Carriage N.V.D. Declared Value for Customs N.V.D.
Airport of Destination PARIS		Requested Flight/Date CV7714/30CV8054/31		Amount of Insurance NIL INSURANCE - If carrier offers insurance, and such insurance is requested in accordance with the conditions thereof, indicate amount to be insured in figures in box marked "Amount of Insurance"	
Handling Information PLEASE CONTACT CONSIGNEE AT 33 1 49 19 50 50 UPON ARRIVAL.					
These commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Ultimate destination				Diversion contrary to U.S. law prohibited. SCL	
No. of Pieces RCP	Gross Weight kg lb	Rate Class Commodity Item No.	Chargeable Weight	Rate Charge	Total
20	6295.5	Q	9959	0.10	995.90
					Nature and Quantity of Goods (Incl. Dimensions or Volume) CONSOLIDATION AS PER ATTACHED MANIFEST
20	6295.5				995.90
Prepaid		Weight Charge	Collect	Other Charges	6.00 MYC 7239.83
995.90					
Valuation Charge					
Tax					
Total Other Charges Due Agent					
Total Other Charges Due Carrier					
7245.83					
Total Prepaid		Total Collect			
8241.73					
Currency Conversion Rates		CC Charges In Dest. Currency			
For Carriers Use only at Destination		Charges at Destination		Total Collect Charges	

172-01734563

Shipper certifies that the particulars on the face hereof are correct and that insofar as any part of the consignment contains dangerous goods, such part is properly described by name and is in proper condition for carriage by air according to the applicable Dangerous Goods Regulations. SHIPPER HEREBY CONSENTS TO A SEARCH OR INSPECTION OF THE CARGO PURSUANT TO 49 C.F.R. § 1548.5(b).

KHIEM NGUYEN, AGENT

Signature of Shipper or its Agent

KHIEM NGUYEN, AGENT
29 May 2013 CHICAGO, ILLINOIS

Executed on (date) at (place) Signature of Issuing Carrier or its Agent